

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

A telephone interview was conducted on April 4, 2005 between the Examiner and the undersigned. Applicant thanks the Examiner for the courtesies extended in this telephone interview. In the course of discussing the prior art and the present invention, the undersigned explained to the Examiner that prior art measurement instruments of the type shown in the present Figs. 6 and 7 include openings to the outside environment, allowing dust to enter the interior of the instrument and interfere with its operation. To overcome these difficulties, the present invention includes an engaging member, provided on the outer circumference of the instrument body, for detachably engaging and supporting the lever support. In either event, the engaging member does not penetrate the instrument body, and detachably engages the lever support thereto. By using the intervening component of the engaging member, the lever support is attached without boring the outer circumference of the instrument body, as is the case with prior art instruments. The present invention thereby prevents dust particles from entering the interior of the instrument body.

Upon discussing these issues, the Examiner suggested that the claims be amended to more clearly indicate the concept that the instrument body is formed so as to prevent contact with the outside environment and thereby prevent the dust

particles from entering the interior of the instrument body. Accordingly, the claims have now been amended to recite that the engaging member is attached to “the outer circumference of the instrument body without boring the outer circumference of the instrument body.” It is believed that these clarifying amendments remove issues in the present application and more clearly define features that the Examiner indicated as distinguishing the present invention from the cited art. Remarks follow hereinbelow presenting supporting arguments as to why the invention as presently claimed would distinguish over the prior art.

THE REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-3 had been finally rejected under Section 103(a) as being unpatentable over Rank (U.S. Pat. No. 5,421,101) in view of Stevenson (U.S. Pat. No. 5,450,909). This rejection is respectfully traversed, particularly as presently amended.

The Rank reference is again cited for disclosing various typical elements of a displacement measuring instrument, such as an instrument body, a spindle, and a lifting lever. Rank shows a bracket for receiving the connecting screw 300, which has been read onto the present “engaging member.” The term “detachably,” as added to the previous amendment, had not been regarded as distinguishing from the invention from Rank. In the Final Action, it is again admitted that Rank fails to disclose a lever support. For this reason, Rank is again combined with Stevenson, which discloses a device having a mounting assembly with a dovetail arrangement. However, it will be shown that these references, taken alone or in combination, fail to

show the subject matter of the present claims, as previously rejected and as finally rejected.

It is respectfully submitted that Rank cannot be relied upon to show an “engaging member” as claimed. Claim 1, as originally filed, required that the engaging member is provided on an outer circumference of the instrument body. However, it is clear from inspection of Fig. 3 of Rank that the screw 300 engages the lift handle 15 at the back of the instrument body. Clearly, there is no engagement along the outer circumference of Rank’s instrument body as required by the present claim 1.

In a further distinction, claim 1 as originally filed required that the engaging member engages and supports the lever support, not the lifting lever. The present lever support had been recited in another limitation as supporting the lifting lever. Therefore, claim 1, as originally filed, defined the lever support as being a distinct component from the engaging member. No such distinct components are disclosed or suggested in Rank. Therefore, it would have been improper to equate Rank’s bracket supporting the screw 300 with the present engaging member. If anything, Rank’s device would be more like a lever support attached directly to an instrument body, with no intervening engagement member.

At any rate, it is clear that distinct “lever support” and “engaging member” components are not disclosed or suggested in Rank. It is therefore respectfully submitted that Rank cannot be relied upon to show the combination of a “lever support” and an “engaging member” as had been required by the originally filed claim 1. And even if a correspondence could somehow be made between the elements of Rank and the claimed invention, no structure can be shown that

connects the lifting lever to the outer circumference, as had been required by the original claims. It is respectfully submitted that, for at least these reasons, Rank teaches away from the present invention.

In view of the above, it is submitted that the original claims recited distinctions from Rank that would militate against a combination with Stevenson. Indeed, there would be no motivation for modifying Rank to include the structure of Stevenson, as proposed by the Examiner. But even if such a combination could be made, the references still fail to include a suggestion of distinct lever support and engaging member components, with a mounting along an outer circumference of the instrument body. One would still not arrive at the originally claimed invention unless guided by a hindsight reading of the present disclosure.

Therefore, in order to advance prosecution and further highlight the features that Applicant regards as the invention, claim 1 has been presently amended to recite “an engaging member provided on an outer circumference of the instrument body without boring the outer circumference of the instrument body.” It is respectfully submitted that this amendment further clarifies the points of confusion that have been outstanding throughout prosecution, and therefore does not raise any new issues that would require further consideration and/or search.

It is clear that neither Rank nor Stevenson, taken alone or in combination, disclose a displacement measuring instrument having an instrument body with a lifting lever, supported by a lever support that is detachably engaged and supported by an engaging member provided on an outer circumference of the instrument body, without boring the outer circumference of the instrument body, as recited in claim 1. It is therefore respectfully submitted that the present claim 1 patentably distinguishes

over these references. The dependent claims, while reciting new and advantageous features of their own, are patentable for at least the same reasons as claim 1. The present invention as claimed solves particular problems that have not been previously contemplated in the art. For at least these reasons, favorable consideration of the present application is earnestly solicited.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. KIN-15384.

Respectfully submitted,

RANKIN, HILL, PORTER & CLARK LLP

By 

Jay P. Ryan
Agent for Applicant
Registration No. 37,064

4080 Erie Street
Willoughby, Ohio 44094-7836
(216) 566-9700